

# Minutes of the 79th meeting of the Advisory Committee for England, virtual meeting via Teams on 3 March 2022

## Present

Paula Carter	Chair
Aaqil Ahmed	Member
Emma Davison	Member
Matthew Littleford	Member
Alan Nunn	Member
Mark Smith	Member

## Apologies

Richard Spencer, Consumer Panel Member for England

## In attendance

Angela Dean	Ofcom Board Member for England
Monisha Shah	Ofcom Content Board
Amit Kamal	Next Gen NEDs observer
Peter Fitzsimmons	Public Policy Associate
Ian Vaughan	Head of Governance
Colleagues from Albert (minutes 24 - 32)	
Colleagues from Sky (minutes 33 - 37)	
Other Ofcom colleagues (minutes 15 to 23 and 38 to 53)	

### Introduction

1. The Chair welcomed Members and attendees to the 79th meeting of the Committee which would have climate change, sustainability and resilience themes.

### Declaration of Members' Interests – Oral

2. No interests were declared by Members or attendees.

### Minutes of the meeting held on 9 December 2021 and matters arising – Minutes 78(21)

3. The minutes of the meeting held on 9 December 2021 were **APPROVED** for signature by the Chair as an accurate record.

### Ofcom Board update

4. Angela Dean updated the Committee on the Ofcom Plan of Work Stakeholder session for England held on 24 January 2022. Angela had chaired the session for England and provided a brief update, noting that stakeholders had raised a number of issues on amateur radio.
5. As part of her update on the Board Meeting in February, Angela highlighted that the Board had discussed network resilience and noted the role of the Advisory Committee in helping to bring issues on networks and resilience to the Board's attention,

particularly the discussion on PSTN switch-off. The Board had discussed the complexity around this area, including the cost of increasing network resilience and how it could be funded.

6. The Board had discussed work on the Three Year Plan and focused on what Ofcom aimed to achieve over a multi-year period, including the need to be even more disciplined about its strategic choices and the associated budget and resource to increase efficiency. Telecoms Security was also discussed by the Board and the regulatory requirements that would be placed on Operators.

7. Angela provided an update to the Committee on the Board Workshops that had taken place. The Board had recently considered Online Safety and how the regime might look and the areas Ofcom would be expected to cover. A workshop on net neutrality and Business Continuity had also taken place. The Committee was given an update on Ofcom's Cyber Security and the need to ensure Ofcom remained vigilant.

8. On appointments, Members were informed that the recommendation that the Committee Chair be appointed for a second term was approved by the Board. On Board appointments, the Committee was advised that interviews had taken place to appoint the Board Member for Northern Ireland and the process to appoint a Broadcasting Board Member and the Ofcom Chair remained ongoing.

9. There was interest in the appointments process for Ofcom's Boards and Committees and it was agreed this would be picked up in the Public Policy update. The delay in appointments was briefly discussed, and the impact it could have on those applying for Board roles.

### **Content Board Update**

10. Monisha Shah updated the Committee on the Content Board meeting on 25 January 2022. The Content Board had considered Online Safety, video sharing platforms, audience protection and standards. Complaint volumes remained high, driven by many factors, including covid related broadcast content which could also drive numbers.

11. The Content Board discussed major investigations and Monisha provided an update on the investigations into RT and the sanctions levelled as a result. Beyond Broadcast - the annual research for internal use on the wider audiovisual sector and the impact of online video on traditional TV models had been discussed and Monisha provided an update on the findings of the research, such as the surge in popularity of non-English language programmes and the success of programmes made in the UK.

12. The Committee was interested to hear about the total amount invested in UK production across the different platforms. Monisha explained the challenge in collecting this information from commercial companies as the information was not published. However some information was available from the production companies and the Beyond Broadcast team might be able to provide more information.

13. The Committee also discussed the impact coverage of the War in Ukraine could have on complaints. The process around due impartiality was discussed and Ofcom's process for investigating.

14. A complaint about 'We are England' was discussed and Ofcom's role in the editorial decisions taken by the BBC. It was noted that issues such as these would be considered as part of the review into the BBC Operating licence. The Advisory Committee was keen to be kept informed of developments on issues such as these due to their impact on issues like regional news.

**Public Policy update – ACE 2(22)**

15. Members requested clarification on the process for the re-appointment of Ofcom's Non-Executive Directors. The importance of having a diverse Board was discussed alongside the need for transparency in the process. The Committee noted Ofcom's approach to re-appointments but felt there were aspects that were not entirely clear, particularly at the conclusion of a first term of appointment.

16. The Committee requested greater clarity on Ofcom's approach to Non-Executive Director reappointments. Angela Dean advised she would raise the issue with the Ofcom Board.

17. Members had been provided with a paper to update them on key public policy developments since the last meeting.

18. Members noted Ofcom's work in relation to network resilience and expressed a desire to be kept updated.

**Climate Change – Ofcom and Environmental Matters - ACE 3(22)**

19. As a prelude to discussions on climate change, sustainability and resilience with Albert and Sky, Members were briefed in more detail on how environmental matters were being considered within a regulatory context. Acting sustainably was increasingly important, and Ofcom, as a responsible sector regulator, considered the long-term when assessing outcomes in regulated markets. This included understanding contextual factors that were of relevance to how these markets functioned. Given this, Ofcom had been considering environmental matters, with particular attention given to carbon dioxide equivalent emissions (CO<sub>2</sub>e).

20. While Ofcom did not have a formal role to consider environmental sustainability goals in its statutory framework, Ofcom already conducted some activities that indirectly addressed climate-related issues. For example, pro-actively monitoring the resilience of network design to weather-related risks like flooding and issuing guidance to industry on network resilience. Ofcom engaged with stakeholders to understand the challenges they faced in transitioning to net zero and was considering how it might contribute to the momentum towards achieving the UK's net-zero carbon target. Ofcom explained it was using its insight to support the UK Regulators Network's Climate Change Network and sub-group on Net-Zero Investment.

21. Members discussed the role broadcasters could play as educators informing the public and encouraged Ofcom to make more use of this potentially undervalued resource. Sports broadcasts were given as an example where the impact on sport was used to educate viewers, with discussions framed around golf courses that had been impacted by severe flooding.

22. Members noted that there would be budget implications for Ofcom should it decide it was appropriate to play a more significant role. At present, Ofcom was able to

contribute without significant cost, but should it decide to do more in this space, wider implications would have to be taken into account.

23. Members also discussed the potential cost to the consumer of increasing the resilience in their homes following the switch off of PSTN, such as the energy consumption costs and investments in uninterruptable power supplies to guarantee service. The need to ensure the move to net zero did not disproportionately impact consumers, particularly vulnerable consumers, was something that would continue to be taken into account.

### **Albert**

24. Albert (sitting within but independent of BAFTA) gave a presentation to the Committee. Albert was the screen industry organisation on environmental sustainability and supported the global Film and TV industry to reduce the environmental impacts of production and to create content that supported a vision for a sustainable future.

25. The environmental impact of TV and film, the significant sums spent on content each year and the cultural influence of TV and film were highlighted as reasons why Albert considered that the screen industries offered the best opportunity to tackle the climate crisis.

26. Albert set out how it was educating the industry through training, partnerships and industry convenings. It enabled the industry by providing its carbon calculator toolkit, route maps for infrastructure and schemes such as Creative Energy which enabled the industry to switch to a 100% renewable electricity supplier. Success was also celebrated through Albert's Carbon Neutral Sustainable Production certification and the work it was doing around the world to create localised versions and bring best practice to the wider production industry.

27. Albert explained the wider environmental challenges and the need to halve emissions by 2030 and halve them again by 2040 to achieve net zero by 2050. Some of the COP26 highlights were brought to the attention of the Committee, such as the Global Content climate pledge. Twelve key broadcasters and streamers had made a number of significant commitments including more climate storytelling across all genres, the development of processes to help consider climate themes when commissioning and a commitment to work together.

28. Albert updated the Committee on the work it had done to train industry professionals, educate undergraduates through the Albert module in Universities, to complete over 10k production footprints and certify over 2k productions as Carbon Neutral.

29. Members noted the work undertaken by Albert and the areas it considered Ofcom could apply some regulatory levers. These included regulation to enable rapid delivery of green, future-proofed infrastructure which may not be met by industry, using regulatory mechanisms to require all UK-based productions to carry out a carbon footprint/achieve certification and editorial support through education on solutions, debates and audience impact.

30. Members noted the power of effective industry collaboration and praised the work of Albert and the industry in recognising the need for change and bringing about effective change without the need for regulatory intervention.

31. Albert agreed to share its slide presentation with Mark Smith who in turn would share it with the Committee.

32. The Chair thanked Albert for presenting to the Committee and providing Members with lots to think about, and agreed to share the recommendations with relevant Ofcom colleagues.

#### **Sky Zero and Sky Sports Sustainability – ACE 4(22)**

33. Sky had committed to cut emissions and become net zero carbon by 2030. It was tackling this in three ways: (1) by transforming the business through things like converting vehicles and net zero productions; (2) using Sky's voice editorially to drive change by encouraging its suppliers to also go zero and using renewable energy; and (3) mobilising millions to go zero by supplying more efficient products to consumers such as Sky Glass, an energy saving carbon neutral product.

34. Sky Sports had made a number of changes following initiatives such as Sky's Ocean Rescue about single use plastic. In 2019 Sky began looking at remote productions domestically which meant that during the pandemic it was able to quickly move to that mode for Premier League matches, thereby reducing production by up to 50%. Other measures adopted by Sky included the push for carbon neutral productions and in 2021, Sky had moved to renewable diesel for outside broadcasts and its first new zero broadcast and match.

35. The Committee praised the initiatives Sky had taken and discussed what the role of the regulator could be across the industry. Sky identified the need for content that was not Sky produced to also be Albert certified, or have some other way to measure carbon footprint and said this was one way Ofcom could encourage change.

36. Sky was keen to drive the change as part of its strategy and would be keen to continue to talk to Ofcom about the measures that could be taken to drive wider commitment across the sector. The Committee acknowledged the inspiring work of Sky in taking a leading role towards net zero.

#### **Resilience**

37. The Committee received an update on resilience and the issues associated with the recent storms. Storm Arwen had a massive impact on a small part of the UK, the storm had been significant and the damage to infrastructure was worse than anticipated.

38. In some sectors the response was not as rapid as it could have been, and this was based on the investigation and interim findings by BEIS and Ofgem, with a formal report to be published. The major impact caused by Storm Arwen were the power outages with over one million homes losing power for three minutes or more, with many being without power for over a week. The loss of power meant that the telecoms infrastructure was affected due to many mobile base stations not having an alternative power source that could run for more than a few hours. Broadband was also affected as homes were unable to power their routers and the devices that connect to them.

39. A resilience group facilitated by DCMS with Ofcom and all the major operators had formed a sub-group to look at the lessons learnt and would publish its findings. Mobile Operators had already recognised that they must work closer with the power companies. Steps could be taken where longer outages were likely to take place.

40. With the move to fibre, the mobile network would become the 'supplier of last resort' for the majority of the population and the implications of this needed to be considered further. Members noted that if this were to be the case, measures could perhaps be put in place to place targets for repair, particularly in rural areas. The Committee discussed the potential solutions to ensure greater resilience and the protection of vulnerable consumers. This included work to identify ways to make the infrastructure less susceptible to damage, thereby increasing resilience by reducing the need for repairs.

41. Members discussed the challenge posed by peak events and, whilst recognising the economic need to plan for a 'normal' year, considered the extent to which extraordinary events, which could become more frequent, were considered when determining the size of the workforce or resource.

42. The Committee was advised that the storms had a limited impact on broadcast radio services as the bigger transmitters had dual power supplies and back-up generators. On TV smaller transmitters were affected due to the loss of power and would have affected around 100k viewers.

43. The Committee received an update on Bilsdale, a major TV and radio transmitter, where a fire destroyed the main and reserve TV transmitters and damaged the mast beyond repair. This meant a complete loss for those who received TV via an aerial. A temporary structure was built and capacity increased at other sites but it took some months to restore coverage. Ofcom explained it would conduct a review of both incidents and publish a report with its findings.

44. The Committee received an update on a second major incident, which occurred at Red Bee Media. The fire suppression system was triggered causing significant damage to the equipment in the building. This led to a number of services being affected across a number of TV channels. Channel 4's access services were particularly badly affected and subtitles and audio description services were unavailable from 24 September to 22 October. Ofcom was investigating Channel 4 in relation to Access Service quotas.

45. Members discussed the different failure modes and incidents and considered whether the broadcasting infrastructure was sufficiently resilient, in light of what appeared to be a single point of failure. The application of the regulatory regime with regards to quotas was also raised by Members.

46. Members noted the impact loss of power had on the provision of telecoms services and discussed the interdependencies and the steps communications providers were taking to reduce their carbon footprint and find alternative sources of power.

47. The impact on vulnerable consumers was discussed, with the Committee given assurance that Ofcom was acutely aware of the impact on vulnerable consumers and, due to the interdependent nature of communications and power, the need for cross-sectoral, integrated solutions. An Ofcom colleague advised the Committee of the Cabinet

Office led review of the National Resilience Strategy and noted Ofcom and others may have further opportunities to review resilience solutions.

48. The Chair thanked Albert, Sky and Ofcom for contributions on climate change, sustainability and resilience. The work of Ofcom in this space was acknowledged and the limited scope of Ofcom's regulatory powers was noted but with recognition of the potential enabling role Ofcom could play.

### **C3/C5 relicensing and Media Bill**

49. Members received an update on Ofcom's relicensing work for Channel 3 and 5 licences and the UK Government's proposed white paper and potential Media Bill. Section 229 of the Communications Act 2003 placed a duty on Ofcom to submit a report to the Secretary of State by 30 June 2022. Ofcom was required to assess the capacity of existing Channel 3 and Channel 5 licence holders to contribute to the fulfilment of the purposes of public service television broadcasting at a cost that was commercially sustainable.

50. Issues discussed included the viability of Channel 3 and Channel 5 in the short and medium terms, the measures the broadcasters might take to ensure sustainability and the impact on regional TV.

51. It was noted that Ofcom's report would take account of the recommendations made in the Small Screen: Big Debate statement and reforms to wider PSB considered by the UK Government.

52. Members were updated on the potential Government White Paper and new Media Bill and the need to ensure future licences were aligned with any changes the Government made on the wider PSB Framework. The Committee noted it was at an early stage and requested further updates in due course.

### **Members' open session**

53. The Committee Members discussed Ofcom's Plan of Work, the Advisory Committee's response to the Consultation and the related online stakeholder event on 24 January.

54. A Member provided an update on a meeting with Ofcom on the BBC's Operating Licence. A number of issues had been discussed including regional programming, how decisions around issues such as funding would be made and the need for greater transparency.

55. The Chair highlighted the role of Ofcom as a regulator of critical national infrastructure and therefore the importance of ensuring Ofcom was aligned with what was happening in other sectors as they moved towards net zero. The Committee then discussed the role Ofcom could play as an economic regulator and the impact of regulating critical services, for example overseeing processes and procedures.

56. A Member raised the issue of due impartiality and the impact of state intervention and misinformation, particularly at times of crisis. The Committee considered whether additional focus should be placed on broader issues such as the broadcast media

landscape. Members also discussed whether consistent approaches to editorial decisions were adopted in the UK when reporting on conflicts in different parts of the world.

57. It was noted that in a constantly changing broadcast environment, with changing expectations, Ofcom and the Content Board were continuing to use research and evidence to reach judgements. Broadcasts were also monitored, even more rigorously during a crisis, to ensure due impartiality was maintained.

58. The Committee discussed the cost of living crisis and considered the impact on the affordability of communications services. The Committee acknowledged that there were a number of consumers who would be affected by the crisis and the importance of Ofcom continuing to raise awareness of services like the social tariffs offered by Communications Providers.

59. A member had provided input to Ofcom in a recent discussion about the Connected Nations 2021 report and reported that there were a number of interventions taking place in rural areas and that a strong incentive was VoIP migration.

#### **Future agendas**

60. The Sir Lenny Henry Centre had confirmed it was happy to host the Committee. The ASA had also confirmed it was happy to meet with the Committee.

61. A Member suggested Tech UK as another organisation the Committee should request attend a meeting and suggested meetings with other utility companies in addition (power and water).

62. It was suggested that if the next meeting was to be in Birmingham, where possible, the Committee should seek to discuss issues affecting that region. The Chair agreed to contact the Office of the Mayor of the West Midlands for further suggestions on regional issues.

#### **Information Items**

63. Consumer Panel update – ACE 7(22): The paper was noted.

64. Telecoms, Broadcast & Postal Complaints data (England) – ACE 8(22): The paper was noted.

#### **Any Other Business**

65. There was no other business.

#### **Date of the Next Meeting**

66. The next scheduled Committee meeting would be held on 9 June 2022.